IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 695 (S/S) of 2006

Rakesh Joshi,
aged about 33 years,
son of Sri D.D. Joshi,
Assistant Wasil Baki Nawis,
Collection Department,
District Magistrate Office,
Tehri Garhwal. **……Petitioner**

V e r s u s

1. State of Uttaranchal through Secretary, Revenue, Uttaranchal, Dehradun.
2. Chief Revenue Commissioner, Uttaranchal, Dehradun.
3. Commissioner, Garhwal Mandan, Pauri.
4. District Magistrate, Tehri Garhwal.

…….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Subhash Upadhyay, learned counsel for the petitioner and Sri Paresh Tripathi, learned standing counsel for State of Uttaranchal on behalf of respondents.

Learned counsel for the petitioner wants to correct the name of the petitioner. Learned counsel for the petitioner is permitted to correct the name of the petitioner during the course of the day.

Learned counsel for both the parties are agreed to decide the writ petition at its admission stage.

By means of this writ petition, petitioner has prayed for following reliefs:

(i) issue a writ, order or direction in the nature of Mandamus commanding the respondents

authorities to consider the case of the petitioner for absorption against the vacant post of Junior Clerk.

(ii) *Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstance of the case.*

(iii) *Award the petition in favour of the petitioner.*

The submission of the petitioner is that vide order dated 19.09.1998 petitioner was appointed as Assistant Wasil Baki Nawis in the pay scale of Rs. 3050 – 4500 in Tehsil – Pratap Nagar, District – Tehri Garhwal. The said appointment was made till 30.09.1998. However, the petitioner continued on the post of Assistant Wasil Baki Nawis till 2000 with artificial break.

Aggrieved with the artificial break given by the respondents petitioner has filed Writ Petition No. 10303 of 2000 before Allahabad High Court and Allahabad High Court on 28.02.2000 disposed of writ petition in terms of order dated 23.02.1999 passed in Writ Petition No. 40835 of 1999 (Ramesh Dutt and others Vs. State of U.P. and others).

In pursuance to the order passed by Allahabad High Court petitioner is continuously working on the post since 01.04.2000 without any artificial break.

Petitioner made representation to the District Magistrate, Tehri Garhwal that earlier also respondents have regularized the services of Assistant Wasil Baki Nawis on the vacant posts of Junior Clerks and the case of the petitioner may also be considered for absorption on the post of Junior Clerk in the District – Tehri Garhwal, as the posts are vacant.

District Magistrate, Tehri Garhwal vide letter dated 24.01.2006 requested the Commissioner, Garhwal Mandal, Pauri to issue necessary direction for providing appointment to the petitioner on the post of Junior Clerk. It is admitted by the District Magistrate, Tehri Garhwal that the posts are vacant.

The Commissioner, Garhwal Mandal, Pauri on 14.02.2006 wrote letter to District Magistrate, Tehri Garhwal stating therein that in District – Tehri Garhwal earlier also Assistant Wasil Baki Nawis were given appointment on the post of Junior Clerk and there should have been no hurdle in providing appointment to the petitioner on the post of Junior Clerk. Since the District Magistrate is the Appointing Authority he may take decision in this matter in accordance with the prevalent Rules.

During the course of the argument, learned counsel for the petitioner has confined his prayer that District Magistrate, Tehri Garheal be directed to take decision on the representation of the petitioner dated 22.01.2006 at the earliest.

In view of the above, I direct the District Magistrate, Tehri Garhwal i.e. respondent no. 4 to take appropriate decision on the representation of the petitioner dated 22.01.2006 (Annexure No. 7 to the Writ Petition) within a period of three weeks from the date of production of certified copy of this order. With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

May 24, 2006
SKSharama